

106TH CONGRESS  
2D SESSION

# H. R. 4192

To amend the Internal Revenue Code of 1986 to prevent the use of reinsurance with foreign persons to enable domestic nonlife insurance companies to evade United States income taxation.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 2000

Mrs. JOHNSON of Connecticut (for herself, Mr. NEAL of Massachusetts, and Mr. MATSUI) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to prevent the use of reinsurance with foreign persons to enable domestic nonlife insurance companies to evade United States income taxation.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PREVENTION OF EVASION OF UNITED STATES**

4 **INCOME TAX ON NONLIFE INSURANCE COM-**

5 **PANIES THROUGH USE OF REINSURANCE**

6 **WITH FOREIGN PERSONS.**

7 (a) IN GENERAL.—Section 845 of the Internal Rev-  
8 enue Code of 1986 (relating to certain reinsurance agree-

1 ments) is amended by adding at the end the following new  
2 subsection:

3 “(c) TREATMENT OF REINSURANCE WITH RELATED  
4 FOREIGN INSURERS.—

5 “(1) IN GENERAL.—For purposes of part II  
6 this subchapter, if a domestic person directly or indi-  
7 rectly reinsures a United States risk with a related  
8 foreign reinsurer, then, except as provided in para-  
9 graph (2)—

10 “(A) the investment income of the domes-  
11 tic person shall be increased each year by an  
12 amount equal to the product of—

13 “(i) the average of the applicable Fed-  
14 eral mid-term rates determined under sec-  
15 tion 1274(d)(1) for such year, and

16 “(ii) the sum of the reserves and/or li-  
17 abilities related to the United States risks  
18 ceded to the foreign reinsurer as shown on  
19 the annual statement approved by the Na-  
20 tional Association of Insurance Commis-  
21 sioners, and

22 “(B) the excise tax imposed by section  
23 4371 shall not apply to reinsurance premiums  
24 paid by such domestic person to such foreign  
25 reinsurer.

1           “(2) EXCEPTIONS.—Paragraph (1) shall not  
2       apply to the extent—

3           “(A) 1 or more domestic corporations or  
4       United States individuals include under subpart  
5       F the income attributable to the reinsurance of  
6       the United States risks ceded to the related for-  
7       eign reinsurer in its tax return,

8           “(B) the foreign reinsurer retaining the re-  
9       insurance includes the income attributable to  
10      the reinsurance of the United States risks ceded  
11      to the related foreign reinsurer in its tax return  
12      pursuant to an election under section 953(d) or  
13      as income effectively connected with a United  
14      States trade or business, or

15          “(C) the foreign reinsurer elects, in such  
16      manner and pursuant to such regulations as the  
17      Secretary may prescribe, to file a tax return  
18      and pay tax on the income attributable to all  
19      reinsurance of United States risks ceded to the  
20      foreign reinsurer by related domestic persons as  
21      if such income were effectively connected with a  
22      United States trade or business.

23      Once made, the election described in subparagraph  
24      (C) shall be binding for all subsequent taxable years  
25      unless, upon application by the taxpayer, the Sec-

1       retary permits a revocation subject to such condi-  
2       tions as the Secretary may deem necessary.

3               “(3) UNITED STATES RISK.—For purposes of  
4       this subsection, the term ‘United States risk’ means  
5       any risk related to property in the United States, or  
6       liability arising out of activity in, or in connection  
7       with the lives or health of residents of, the United  
8       States.

9               “(4) RELATED FOREIGN INSURER.—For pur-  
10      poses of this subsection—

11              “(A) IN GENERAL.—The term ‘related for-  
12      eign insurer means, with respect to any domes-  
13      tic person, any foreign insurer if such person  
14      and insurer are which is owned or controlled di-  
15      rectly or indirectly by the same interests (within  
16      the meaning of section 482).

17              “(B) FOREIGN INSURER.—The term ‘for-  
18      eign insurer’ means any foreign person assum-  
19      ing a United States risk directly or indirectly  
20      from a domestic person unless it is established  
21      to the satisfaction of the Secretary that the tax-  
22      able income (determined in accordance with sec-  
23      tion 832(a)) attributable to the reinsurance of  
24      United States risks is subject to an effective  
25      rate of income tax imposed by a foreign country

1 greater than 20 percent of the maximum rate  
2 of tax specified in section 11.”

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to taxable years ending after the  
5 date of enactment of this Act.

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